

OAK TREE PRESERVATION IN SAN LUIS OBISPO COUNTY

As one North County rancher from a pioneer family noted, few agricultural issues are as emotionally charged as oak tree preservation. Residents choose the central coast because of the relatively clean air and water, ocean, mountains, rolling plains and woodlands.



Native trees help provide clean air, maintain the watershed, sustain wildlife habitat, promote bio-diversity and retain the pristine countryside. In many ways, the California Oaks define our environment and remind us why we live in San Luis Obispo County.

Oak woodland: Is it worth saving?

ORIGIN

The Grand Jury received a complaint from a county resident regarding the removal of a mature oak tree as a result of new development, and the lack of written protection for native trees.

AUTHORITY

California Penal Code §925 states: “The grand jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county including those operations, accounts, and records of any special legislative district or other district in the county created pursuant to state law for which the officers of the county are serving in their ex officio capacity as officers of the districts.”

METHOD

The Grand Jury:

- Interviewed the complainant;
- Interviewed staff of the SLO County Public Works Department;
- Interviewed staff of SLO County Planning and Building Department;
- Interviewed staff of the SLO County Code Enforcement;
- Interviewed community development staff of the City of El Paso de Robles;

- Interviewed a representative of Greenspace, a local environmental advocacy group;
- Interviewed a representative of the San Luis Obispo County Oak Protection Committee, a grass-roots advocacy group;
- Interviewed members of the ranching and agricultural community;
- Interviewed the University of California, Area Natural Resources Specialist;
- Reviewed the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA);
- Reviewed county environmental violations and code enforcement procedures; and
- Reviewed tree ordinances and/or regulations for the cities of El Paso de Robles, Arroyo Grande, San Luis Obispo, Morro Bay, Grover Beach, and Pismo Beach, as well as San Luis Obispo County Title 22, Chapter 22.56-Tree Preservation.

THE COMPLAINT

On August 20, 2005, a mature, and according to lore, historic Valley Oak was removed in favor of road construction in a new development. The tree was reported to be the site of community picnics and may have been used, at one time, as a hanging tree for rustlers. The location was south of the Boneso/Filiponi subdivision, near Las Tablas Rd. and Highway 101, in Templeton.



The road that replaced the historic oak.

The Templeton Area Advisory Group (TAAG) usually reviews new projects within their area presented by a representative of the SLO County Planning Department. In the review process, however, TAAG had apparently overlooked the removal of two mature oak trees. Residents did not think the trees would need to be removed, and many were surprised when it happened.

A permit for removal of the trees was approved according to SLO County Planning and Building Department; however, residents questioned the necessity of removal. The response to the complainant from the Senior Planner and liaison to TAAG was, “I reviewed the conditions of approval and the tree was authorized for removal due to the construction of Bennett Way.”

Another planner was contacted by the complainant and asked if there was any discussion about trying to save the tree. The response was that the planning department had tried to save the large oak along Bennett Way. It was suggested the complainant "... talk with Richard Marshall of the Public Works Dept. who is familiar with the tract and can explain the road alignments in that area."

In a Grand Jury interview with Public Works staff, it was noted that per the County's Circulation Element (traffic flow), there was a decision early on to connect Bennett Way, providing for traffic circulation in the vicinity of the new development. Once this decision was made, road engineering came into play, with safety being the main concern. Factors such as elevation, slope and degree of curve were evaluated. Upon addressing the engineering concerns, it was determined that the tree was in the way and that if it were to remain, it would probably not survive due to disturbance resulting from the road construction.



Unimproved end of Bennett Way: will this be removed?

Removal was authorized and permitted, but could the tree have been saved?

County Oak Tree Policies:

Oak tree policies in unincorporated areas vary and depend on location, land use and zoning. If the trees are within the coastal zone, Village or Urban Reserve Line, or within the purview of the California Environmental Quality Act, the planning department may impose conditions and restrictions on landowners and new construction. The urban reserve line (URL) is a boundary separating urban/suburban land uses and rural land uses. The village reserve line (VRL) distinguishes developed areas from the surrounding rural countryside. If a tree exists on a lot permitted for new construction, the planning department can only recommend protective measures. If the oaks reside on an antiquated subdivision (parcels of land that were established, mapped, or recorded in the 1800's) or on rural lands outside the Urban and Village Reserve

Lines, such as Agricultural or Rural Lands, no restrictions are applicable unless a discretionary permit is required.

The vast majority of undeveloped land in SLO County is either antiquated subdivisions or zoned Agricultural or Rural Lands. Even under circumstances where the planning department may impose conditions or restrictions, a removal may be permitted with mitigation of 4:1 (four saplings planted for each mature oak removed).

Under *Title 22-Land Use Ordinance, Chapter 22.56-Tree Preservation*, permits are required, but only within urban or village reserve lines. This historic oak was within the Templeton Urban Reserve Line and removal permitted with 4:1- mitigation. Once again, however, could the tree have been saved?

To Protect or Not to Protect?

A Native Oak Tree Protection Survey was prepared in 2003, and is currently in draft form. According to a random survey, 76% of the San Luis Obispo County registered voters, who responded, support a native oak protection ordinance and favor protection and preservation of native trees.

Protection of the natural and cultural landscape is not new to the county. In the 1990's, the Board of Supervisors formed a task force to develop an ordinance. The attempt to develop an ordinance was abandoned and the Native Tree Resolution was adopted in 1997, followed by the formation of the Native Tree Committee in

1998. Several years later, the committee's mission was expanded to include oak woodland management. All of these efforts are commendable and have one element in common. They are voluntary and the guidelines are merely a suggestion.



Oaks on the proposed Chandler Ranch development in Paso Robles.

The issue of voluntary protection is controversial. Property rights and the ability of landowners to manage their land is essential. Most farmers and ranchers are conscientious stewards of their holdings and the land is their livelihood. It is also true the most blatant destruction of oak woodlands has come as the result of new vineyards and population growth, as was seen in Santa Barbara County. These acts prompted the adoption of a stringent ordinance to deter future violations in that county. There appear to be philosophical differences within the agricultural community as to the value in protecting native trees. Many ranchers take a holistic approach to managing their oak woodlands. Besides cattle grazing, the land may be used for hunting, fishing, or camping. Some of these practices are controversial, but the sense is that their intent is honorable and that there is a tie to the land. One does not perceive the same philosophical approach on the part of some vineyard owners and developers.

Testimony before the Grand Jury noted the concern that some developers may circumvent environmental statutes (NEPA, CEQA) through agricultural conversion. For example, a conversion may involve clearing ranch land to plant row crops, only to construct homes within a few years. Grand jury testimony indicated that many citizens view this practice as unethical, although not illegal. Clearing land in the name of agriculture only to develop tract homes on a treeless landscape is not uncommon in California.

Are Ordinances Necessary?

The Grand Jury reviewed tree ordinances, resolutions and regulations for several incorporated municipalities in the county. Details, and the applications of sanctions and science vary from city to city. It is interesting that the most complete and restrictive oak tree preservation ordinance happens to be in the City of El Paso de Robles. This city is also the fastest growing city in the county and considered quite developer friendly. The Community Development Director was asked how the City responds to developers that request removal of oaks for construction. He stated simply, “ We tell them to build around them.” Local contractors are accustomed to the oak protection ordinance and



Leave the tree; move the road.

readily accept its requirements as a cost of doing business. This may not be accurate in all cases, but the attitude is essential and the ordinance supports it.



Build a park; save a tree.

Two primary alternatives to ordinances are education and resource management planning. It has been suggested that instead of tallying the number of trees lost, we should begin a program of acres gained. With a management plan, development and oak woodlands would be forced to co-exist with the opportunity for expansion

through “mitigation” acres; i.e., placing woodland acres aside as a condition of development.

Education is seen as a way to convince landowners, agriculturalists and developers that it is in everyone’s long-term best interests to preserve and protect their oak trees.

Voluntary protection, of course, is the ideal and in rangeland management it may be possible due to most ranchers respect for their land. One may not be as optimistic about other forms of agriculture such as vineyard management. The argument against an ordinance is based on the difficulty of passage with the current political climate and power base in the county, polarization of the community, and the fact that there would not be enough code enforcement officers to insure its compliance if passed. True preservation and protection in unincorporated areas, including agricultural land, without an ordinance is improbable.

The San Luis Obispo County Oak Protection Committee, a grass-roots advocacy group, is in the process of developing an ordinance concerning oak tree protection and regeneration, in the unincorporated areas. It is currently in draft form, and attempts to bridge the gap between voluntary and regulated preservation. The committee is addressing stakeholder concerns in order to reach consensus.

FINDINGS

Finding 1: Prior to statehood, California contained approximately 18 million acres of oak and hardwood woodlands. Today we have about 9.5 million acres in oak woodlands and about 45% of those are so heavily disturbed that they are not functioning well in an ecological sense.

Finding 2: In the first 100 years after California became a state, developers and ranchers removed 70% of the oaks in the Salinas Valley. Currently, it is estimated that 14,000 acres of oak woodland (60,000 acres of forestland) are eliminated each year in California. Oaks still cover 36% of San Luis Obispo County.

Finding 3: The Native Oak Tree Protection Survey indicated that 76% of the respondents supported the adoption of a native oak protection ordinance.

Finding 4: Penalties have not deterred illegal destruction of oaks or oak habitat.

Finding 5: Code Enforcement reports there is insufficient staff to investigate the amount and degree of environmental crime.

Finding 6: All county staff interviewed favored increased protection of native trees.

Finding 7: Oak trees in California are under siege from development, disease, and demand for firewood.

RECOMMENDATIONS

Recommendation 1: Protection and preservation of oaks should be mandated by ordinance in any new construction in all unincorporated areas including antiquated subdivisions and single-family homes. (Findings 1, 2, 3, 6 & 7)

Recommendation 2: Agricultural lands should not be exempt from the protection and preservation of oaks and protection should be mandated by ordinance. Agricultural lands whose primary activity is cattle grazing should be exempt with an approved management plan. (Findings 1, 2, 3, 6 & 7)

Recommendation 3: Proposed ordinances should be reviewed openly with consensus of stakeholders as the primary goal. (Finding 3)

Recommendation 4: Sanctions for unnecessary or un-permitted destruction of oaks or oak habitat should be severe enough to deter criminal acts. (Finding 4)

Recommendation 5: The number of Code Enforcement investigators should be increased. (Finding 5)

CONCLUSION

It is difficult to imagine the Salinas Valley, when the first Spanish expeditions traversed it 230 years ago, encountering a landscape, green year round, covered with giant rye grass and majestic Valley Oaks. Today, the hand of man is apparent.

Being relatively rural, oaks still cover much of San Luis Obispo County. They may not be endangered, but they are threatened and worthy of vigilance. Within their authority, county departments take crimes against the environment seriously. In their ***Information on: Environmental Violations*** pamphlet, the SLO County Department of Planning and Building states that once damaged or removed, sensitive resources rarely recover. They cite the example of a mature oak tree, which is cut down, may be replaced with a sapling, but it will take generations to replace the tree that was once there. All county staff interviewed felt protection and preservation of oaks was important, and more could be done.

It is clear that the citizens of San Luis Obispo County recognize the importance of retaining the beauty and character of our landscape and favor its protection and preservation. If the question, “Should the historic oak have been saved?” had been posed to the citizenry, we believe the answer would be yes.

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REQUIRED RESPONSES

- ø **The San Luis Obispo County Department of Planning and Building: Due 08/03/06 (Findings 1 through 7 and Recommendations 1 through 5)**

- ø **The San Luis Obispo County Board of Supervisors: Due 09/05/06 (Findings 1 through 7 and Recommendations 1 through 5)**